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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 181129999-9376-01]

RIN 0648-XG657

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish

Fisheries; Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes new *Illex* squid specifications, while maintaining previously approved longfin squid and butterfish specifications for the 2019 fishing year. NMFS previously set specifications for all three species for 2018-2020 but proposes to increase the 2019 *Illex* squid acceptable biological catch by 2,000 mt based on updated scientific advice. No changes to the previously approved 2019 longfin squid or butterfish specifications are proposed in this action. This action is necessary to specify catch levels for the *Illex* squid fishery based on updated information on allowable catch levels and to provide notice that NMFS is maintaining the previously approved longfin squid and butterfish specifications. These proposed specifications are intended to promote the sustainable utilization and conservation of the squid and butterfish resources.

DATES: Public comments must be received by **[INSERT DATE 30 DAYS AFTER DATE**

OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Copies of supporting documents used by the Mid-Atlantic Fishery Management Council, including the Environmental Assessment (EA), the Supplemental Information Report (SIR), the Regulatory Impact Review (RIR), and the Regulatory Flexibility Act (RFA) analysis are available from: Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901, telephone (302) 674-2331. The EA/RIR/RFA analysis is also accessible via the Internet at www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0135.

You may submit comments, identified by NOAA-NMFS-2018-0135, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0135, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope “Comments on 2019 MSB Specifications.”

- *Fax:* 978-281-9135; Attn: Douglas Christel

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address,

etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Douglas Christel, Fishery Policy Analyst, (978) 281-9141, fax (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Background

This rule proposes specifications, which are the combined suite of commercial and recreational catch levels established for one or more fishing years, for *Illex* squid. Section 302(g)(1)(B) of the Magnuson-Stevens Fishery Conservation and Management Act states that the Scientific and Statistical Committee (SSC) for each regional fishery management council shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch (ABC), preventing overfishing, ensuring maximum sustainable yield, and achieving rebuilding targets. The ABC is a level of catch that accounts for the scientific uncertainty in the estimate of the stock's defined overfishing level (OFL).

The regulations implementing the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP) require the Mid-Atlantic Fishery Management Council's Atlantic Mackerel, Squid, and Butterfish Monitoring Committee to develop specification recommendations for each species based upon the ABC advice of the Council's SSC. The FMP regulations also require the specification of annual catch limits (ACL) and accountability measure (AM) provisions for butterfish. Both squid species are exempt from the ACL/AM

requirements because they have a life cycle of less than one year. In addition, the regulations require the specification of domestic annual harvest (DAH), domestic annual processing (DAP), total allowable level of foreign fishing (TALFF), joint venture processing (JVP), commercial and recreational annual catch targets (ACT), the butterfish mortality cap in the longfin squid fishery, and initial optimum yield (IOY) for both squid species.

On March 1, 2018 (83 FR 8764), we published a final rule in the *Federal Register* implementing *Illex* and longfin squid and butterfish specifications for 2018 and projected specifications for fishing years 2019 and 2020. Since then, the Council's SSC met on May 8, 2018, to reevaluate the 2019 specifications based upon the latest information. At that meeting, the SSC concluded that no adjustments to these specifications were warranted. However, the SSC met again on September 18, 2018, at the request of the Council to reevaluate its *Illex* squid specification recommendation and consider increasing the 2019 *Illex* landing limit given the fishery had fully harvested available quotas in both the 2017 and 2018 fishing years. The SSC reiterated its observation that landings up to 26,000 mt have not caused harm to the *Illex* stock. It concluded that raising the *Illex* squid ABC to 26,000 mt for 2019 and maybe 2020 would not likely result in a greater than 40 percent chance of overfishing this stock. On October 3, 2018, the Council adopted the updated SSC recommendations for a 26,000-mt *Illex* squid ABC in 2019 and 2020, but did not recommend any changes to the previously approved 2019 specifications for longfin squid and butterfish. The Council submitted its recommendations, as summarized below, along with the required analyses, for initial agency review on February 11, 2019. NMFS must review the Council's recommendations for compliance with the FMP and applicable law, and conduct notice-and-comment rulemaking to propose and implement the final specifications.

This action does not consider revisions to existing specifications for Atlantic mackerel. On August 13, 2018, the Council approved Framework Adjustment 13 to the FMP. This action includes a rebuilding program for Atlantic mackerel and annual specifications for 2019-2021. We will publish a separate proposed rule in the *Federal Register* to solicit public input on the specifications for the Atlantic mackerel fishery. Until new specifications are implemented, the existing Atlantic mackerel, longfin squid, and butterfish specifications, as described below, will continue pursuant to 50 CFR 648.22(d)(1).

2019 Longfin Squid Specifications

This action maintains the existing longfin squid ABC of 23,400 mt for 2019, as implemented on March 1, 2018 (83 FR 8764). The background for this ABC is discussed in the proposed rule to implement the 2018-2020 squid and butterfish specifications (December 13, 2017; 82 FR 58583) and is not repeated here. The IOY, DAH, and DAP are calculated by deducting an estimated discard rate (2.0 percent) from the ABC. This results in a 2019 IOY, DAH, and DAP of 22,932 mt (Table 1). This action also maintains the existing allocation of longfin squid DAH among trimesters according to percentages specified in the FMP (Table 2). The Council will review these specifications during its annual specifications process following annual data updates each spring, and may change its recommendation for 2020 if new information is available.

Table 1 – 2019 Longfin Squid Specifications in metric tons (mt)

OFL	Unknown
ABC	23,400
IOY	22,932
DAH/DAP	22,932

Table 2 – 2019 Longfin Quota Trimester Allocations

Trimester	Percent	Metric Tons
I (Jan-Apr)	43	9,861
II (May-Aug)	17	3,898
III (Sep-Dec)	40	9,173

2019 Butterfish Specifications

This action also maintains the previously approved 2019 butterfish specifications outlined in Table 3, as implemented on March 1, 2018 (83 FR 8764). The background for these specifications is discussed in the proposed rule to implement the 2018-2020 squid and butterfish specifications (December 13, 2017; 82 FR 58583) and is not repeated here. In summary, the 2019 butterfish specifications are based on long-term recruitment estimates and include a 7.5 percent management uncertainty buffer and an estimated discard rate of 2.4 percent. These specifications maintain the existing butterfish mortality cap in the longfin squid fishery (3,884 mt) and the existing allocation of the butterfish mortality cap among longfin squid trimesters (Table 4).

Table 3 – 2019 Butterfish Specifications in Metric Tons (mt)

OFL	37,637
ACL = ABC	27,108
Commercial ACT (ABC - management uncertainty buffers for each year)	25,075
DAH (ACT minus butterfish cap and discards)	20,061
Directed Fishery closure limit (DAH - 1,000 mt incidental landings buffer)	19,061
Butterfish Cap (in the longfin squid fishery)	3,884

Table 4 – Trimester Allocation of Butterfish Mortality Cap on the Longfin Squid Fishery for 2019

Trimester	Percent	Metric Tons
I (Jan-Apr)	43	1,670
II (May-Aug)	17	660

III	(Sep-Dec)	40	1,554
Total		100	3,844

Proposed 2019 *Illex* Squid Specifications

Consistent with the Council's recommendation summarized above, NMFS proposes to increase the 2019 *Illex* ABC from 24,000 mt to 26,000 mt. The Council recommended that the ABC be reduced by the status quo discard rate of 4.52 percent, which results in a 2019 IOY, DAH, and DAP of 24,825 mt (Table 5), an increase of 8 percent compared to 2018 levels (22,915 mt). The Council will review this decision during its annual specifications process following annual data updates each spring, and may change its recommendations for 2020 if new information is available.

Table 5 – Proposed 2019 *Illex* Squid Specifications in metric ton (mt)

OFL	Unknown
ABC	26,000
IOY	24,825
DAH/DAP	24,825

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Atlantic Mackerel, Squid, and Butterfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This action is exempt from review under E.O. 12866. This proposed rule is not expected to be an Executive Order 13771 regulatory action because this proposed rule is exempt from E.O. 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The purpose, context, and statutory basis for this action is described above and not repeated here. Business entities affected by this action include vessels that are issued limited access longfin squid, *Illex* squid, and butterfish permits. Although vessels issued open access incidental catch permits for these species are also potentially affected by this action, because these vessels land only small amounts of squid and butterfish and this action would not revise the amount of squid and butterfish that these vessels can land, these entities would not be affected by this proposed rule.

Any entity with combined annual fishery landing receipts less than \$11 million is considered a small entity based on standards published in the *Federal Register* (80 FR 81194, December 29, 2015). In 2017, 63 separate vessels were issued limited access *Illex* squid permits in 2017. These vessels were owned by 51 entities, 45 of which earned less than \$11 million in revenue and were small business entities that would be affected by this action. Average revenues for these entities was \$2.0 million in 2017.

The previously approved longfin squid and butterfish commercial landing limits would not be changed by this proposed action, while the commercial *Illex* squid landing limit would be increased by 8 percent (1,910 mt). Fishing revenue and, therefore, economic impacts of yearly *Illex* squid specifications depend upon species availability, which may change yearly. For example, the *Illex* squid fishery landed 14.7 million lb in 2016 for a value of \$7.2 million, yet landed over 49.6 million lb in 2017 for a value of just over \$22 million. The proposed 1,910-mt increase in the 2019 *Illex* squid landing limit would increase fishing revenue by nearly \$1.9

million compared to the 2018 landing limit if the fishery lands all available quota. If the fishery fully harvests the proposed 2019 commercial landing limit, it could generate approximately \$25 million in fishing revenue based on 2016 prices. In determining the significance of the economic impacts of the proposed action, we considered the following two criteria outlined in applicable National Marine Fisheries Service guidance: Disproportionality and profitability. The proposed measures would not place a substantial number of small entities at a significant competitive disadvantage to large entities; all entities affected by this action would be equally affected. Accordingly, there are no distributional economic effects from this action between small and large entities. Proposed measures would not reduce fishing opportunities based on recent squid and butterfish landings, change any entity's access to these resources, or impose any costs to affected entities. Therefore, this action would not reduce revenues or profit for affected entities compared to recent levels. Based on the above justification, the proposed action is not expected to have a significant economic impact on a substantial number of small entities.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 24, 2019.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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